

MT LEGISLATIVE HISTORY

Chapter 471 1973

Bill H (S) 129

Original bill & hist. C

H. Committee on Labor & Employment Relations S. Committee on Labor & Employment Relations

Hearing Date(s) Feb 23 ✓C

Hearing Date(s) Jan 22 ✓C

Feb 28 ✓C

Jan 24 ✓C

 C

Jan 29 ✓C

 C

Feb 05 ✓C

Date Out C

 C

Did this bill originate in an interim committee? Yes No

Committee

Report

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 22, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Senator Flynn was the only absent member.

CONSIDERATION OF SENATE BILLS 113 THROUGH 138:

James Carden of the Workmen's Compensation Division was present to explain the background and history of this packet of bills. No opponents were present. These bills were prepared by a committee recommended by the President, consisting of 4 members of labor and 4 members of management.

SB 113: The main purpose of this bill is to see that every working man is covered by some kind of compensation. Substantially, the language has been changed to mandatory rather than elective. All industries that were not considered to be hazardous were elective before.

SB 114: Primarily amendments to existing law. The Governor's Advisory Council on Workmen's Compensation respectfully requests that SB 114 be withdrawn.

SB 115: Mandatory coverage of all employees. Repeals statutes that relate to elective coverage. Amendments read and explained. Page 1, line 23, strike "either" and add "any" and Page 2, line 4 beginning with the second "Provided" strike the rest of line 4, 5, 6, 7, 8, 9, and 10. Chairman Siderius asked if the repealed sections were thoroughly researched. Mr. Carden stated that they were and also that Roger Hasell, who is now working for the Legislative Council, worked with this Committee in drafting these bills and could be of help to this committee.

SB 116: Repeals several sections because these are no longer considered to be necessary in the Workmen's Compensation Act.

SB 117: Additional language to the end of the bill.

SB 118; 119; and 120: Similar bills. Up until now there has never been a definite definition of "temporary total disability", "permanent partial disability" or "permanent total disability." Felt they must differentiate between the three types of disabilities. Senator Shea asked if a man had been earning \$40 per day and was injured but later on could earn perhaps \$15 to \$20 per day, how would he be compensated. Mr. Carden replied that it would be a percentage of the difference between the two wages. Also the present law allows up to 500 weeks.

SB 121: Added the word "gross" on line 15. A person employed by "public corporations cannot draw on sick leave and Workmen's Compensation simultaneously. He can however, draw on one and then the other. He may draw annual leave simultaneously with Workmen's Compensation

SENATE COMMITTEE Labor & Employment Relations

Labor and Employment Relations
Page 2
January 22, 1973

SB 122: Sets a maximum on the limits for Workmen's Compensation for injuries producing partial disability. There shall be no distinction between single, married or men with families. Sixty dollars (\$60) per week is the maximum. The Governor's Council feels that perhaps this will be changed this year but that is the figure that is now the law.

SB 123, 129 and 130: Mr. Holding requested the Committee take additional time to consider the impact of these three bills.

SB 124: Lists those employers exempted from mandatory coverage. "Casual employment" would be not in the usual line of work. Agricultural employers would be considered mandatory. The President's Committee very definitely included agriculture. Agriculture is considered to be a hazardous occupation.

Chairman Siderius asked if an employer hiring one man or more was not covered under Workmen's Compensation and had an injury, would he be subject to penalty. Mr. Carden stated that he could be stripped of his common law defense and subject to a fine up to \$1,000. Mr. Siderius stated that for the last three years the legislators have tried to put farmers under Workmen's Compensation.

Mr. Keefer stated that the Committee attempted, in this legislation, to provide for mandatory coverage rather than elective coverage. They did not do too much about penalties, however SB 131 does provide a penalty. Maybe not strong enough but did not feel there would be any objections to changing the penalty.

SB 125: Amendments presented. Page 1, lines 21 through 24, strike entirely, and Page 1, line 25, strike "the individual" and "customarily". Mr. Holding concurred in this.

SB 126: Provides for medical benefits beyond the 36 months. The title of the bill should be amended if the other amendments are accepted. Page 1, line 7 and 8, strike the words "APPROVED BY THE DIVISION OF WORKMEN'S COMPENSATION", and Page 2, line 5, strike the words "for approval", and Page 2, line 7 after the word "period" and before the punctuation "." add the following language "unless the Division and the hospital agree to an interim amendment of the schedule."

Senator Feenan moved to recess, Senator Bertsche seconded the motion.
MOTION CARRIED.

Chairman Siderius recessed the hearing until Wednesday, January 24, 12:00 noon to continue hearing bills 127 through 138.


SENATOR GEORGE SIDERIUS, CHAIRMAN

George Siderius
SUGG. CLERK

NAME _____

REPRESENTING

Check	
Support	

6874: Siderius

**MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE**

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 24, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Senator Flynn was absent, all other members present.

CONTINUATION OF SENATE BILLS 113 THROUGH 135:

SB 127: Bruce Toole and Neil Keefer worked on this bill. The Governor's Council felt that 100% subrogation is only right. State now allows 50% of compensation and none on medical. Mr. Keefer stated that this bill simply provides for subrogation in the event that a tort action exists. It also provides certain protection for the workman. Now the insurer participates in the cost of litigation. However, the insurer can elect to participate or not. The statute of limitation for instituting action is presently 6 months and this bill would change it to one (1) year. This provides some benefits to industry to recover some compensation.

SB 128: The wording of this bill is almost verbatim to what the Governor's Council suggested. This procedure is used to figure average weekly wage for any given jurisdiction. The average weekly wage, currently, is just under \$130.

SB 129 and 130: Held back for further discussion.

SB 131: Refers to the fine and misdemeanor charge. Not less than \$100 nor more than \$600, or imprisonment not to exceed 6 months in the county jail, or both. The Governor's Council has tried to bring all hazardous fields under Workmen's Compensation. Senator Lowe remarked that under these bills, coverage would be mandatory and the only elective an employer has is which Plan to be covered under. Mr. Keefer mentioned that the ideal situation would be to have an uninsured fund. We do not have this at the present and have not talked much about the mechanics of it.

Senator McNamer and Senator Shea felt that perhaps during the interim the Workmen's Compensation Division might think about this and give it some study. Senator Shea also brought out the point that all employers should be notified of the new law that makes it mandatory for them to be covered by Workmen's Compensation in view of the penalties for not being covered. This could be taken care of by the news media.

SB 132: Was recommended that the age limit for a child to be a full-time student be changed to 26. However, this bill changes it from 21 to 22 years, thus covering a 4 year college course. Social Security benefits also go by 22 years.

SB 133: Must be under the Merit System or we lose federal funds. Senator Keenan has an amendment to which Mr. Carden has no objections.

COMMITTEE ON

Labor & Employment

BILL NO. 113-128

(127-138)

Jan. 24, 1923

VISITOR'S REGISTER

12:02 Noon

NAME

REPRESENTING

Check ☐SUBTOTAL ☐

Joe Casperwhite

Mont. Operating Engineers

X

Jim T. Perry

Mont. State AFL-CIO

X

W. M. KIRKPATRICK

MONTANA WORKERS' UNION

P. Donald

The Armco Co.

Sweet's Standard

Montana Farm Bureau

Bob Hedding

Mt. Rogers Paper Co.

Huff & Co.

The Advertising Co.

Margaret

Montana Self Insurance Co.

COMM 194 0

Labor & Employment Relations

BILL NO. 424

Br. 29. 923

VISITOR'S REGISTER

12.22 Noon

NAME	REPRESENTING	CI	Sum
George H. Ball	Western Lumber Co.		X
Robert H. Nelson	Al. Pine Co.		
P. K. MacDonald	The Green Sea Co.		
W. M. H. R. P. R. I. K.	Munichia Wood Products Co.		
James W. Murray	Western State Ref. Co.		X
Winifred Bush	Western State Lumber Co.		X

Labor & Employment Relations

Page 2

February 5, 1972

SENATE BILL 129: Senator Lowe moved, and seconded by Senator McNameer that page 1, section 1, line 20 after the word "exceed" insert the following: "sixty-six and two-thirds percent (66 2/3%) of" and page 1, section 1, line 23 and 24 by striking the word "disability". Motion carried.

The motion was made and seconded that SB 129 DO PASS AS AMENDED. Motion carried.

SENATE BILL 130: Senator Bertsche moved, seconded by Senator Jensen that the amendment on page 2, line 4, strike "disability" be accepted. Motion carried.

Senator Bertsche moved, seconded by Senator Flynn that SB 130 DO PASS AS AMENDED. Motion carried.

SENATE BILL 131: Senator Bennett submitted an amendment to the title of the bill, being line 9 by adding after the word "ACT;" the following: "AND PROVIDING CRIMINAL PENALTIES;". Senator McNameer seconded the motion. Motion carried. Further action delayed on this bill.

SENATE BILL 132: Senator Bertsche moved, seconded by Senator Lowe that SB 132 DO PASS. Motion carried.

The hour being 1:20 the meeting was adjourned.


SENATOR GEORGE SIDERIUS, CHAIRMAN

SENATE BILL NO. 129

INTRODUCED BY MCKEON, SIDERIUS

92-701

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING COMPENSATION FOR INJURIES PRODUCING TOTAL TEMPORARY DISABILITY UNDER THE WORKMEN'S COMPENSATION ACT; REPEALING SECTION 92-701, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is a new section to be numbered 92-701.1, R.C.M. 1947, which reads as follows:

92-701.1. Compensation for injuries producing temporary total disability. Weekly compensation benefits for injury producing total temporary disability shall be sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed ~~SIXTY-SIX AND TWO-THIRDS PERCENT ($66 \frac{2}{3}\%$)~~ the state's average weekly wage. Total temporary disability benefits shall be paid for the duration of the worker's temporary disability.

In cases where it is determined that periodic disability benefits granted by the Social Security Act, 42

THIRD READING

1 U.S.C. 301 (1935), are payable because of the injury, the
2 weekly benefits payable under this section are reduced, but
3 not below zero (0) , by an amount equal, as nearly as
4 practical, to one-half (1/2) the federal periodic benefits
5 for such week.

6 Section 2. Section 92-701, R.C.M. 1947, is repealed.

-End-

February 23, 1973

Page 2

SENATE BILL # 128 -- SPONSOR: Sen. Bertsche . Jim Carden said that the bill defines "average weekly wage", referring the recommendations of the National Commission. Sen. McKeon urged striking of the Senate amendments.

SENATE BILL # 129 -- SPONSOR: Sen. McKeon opposed the Senate amendments vigorously. They destroy the monetary value of the package. Questions followed.

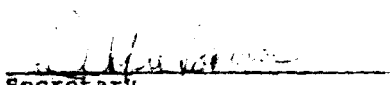
SENATE BILL # 130 -- SPONSOR: Sen. McKeon said that this bill increases the compensation for death benefits. Jim Murry further explained the bill. Questions followed.

The Committee approved the suggestion that a letter be drafted commending the participants in the Governor's Commission for such fine effort and recommended that the Governor continue this Commission.

Jim Murry had said earlier that decisions concerning rate increases had been opposed by some of the Commission members. Rep. East said that for the record he was not one of those.

Meeting was adjourned.


Chairman Pat McKittrick


Secretary

WITNESS STATEMENT

Name W.M. KIRKPATRICK Date _____
Address MISSOURI MO Support ? X
Representing MONTANA WOOD PRODUCTS Oppose ? _____
Which Bill ? S.B. 129 Amend ? _____

Comments:

SUPPORT S.B. 129 AS AMENDED IN SENATE

Please leave prepared statement with the committee secretary.

February 28, 1973

seconded it. Motion carried unanimously.

SB # 129: Rep. Baeth moved to amend it on lines 20 and 21, p. 1, by striking the percentage provision; seconded by Rep. Turman. Motion carried; East and Bell opposed. Lee moved that it BE CONCURRED IN AS AMENDED, seconded by Colberg. Motion carried, East, Turner and Bell opposed.

SB # 130: Rep. Baeth moved, Colberg seconded, that it BE CONCURRED IN. Motion carried unanimously.

Meeting was adjourned.

6. 42 7-5 8

Chairman Pat McKittrick

Secretary

Volume II

Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Forty-third Legislative Assembly

In Regular and Special Session

Held at Helena, the Seat of Government of Said State,

First Regular Session

January 1, 1973 to March 10, 1973

Special Session

March 12, 1973 to March 24, 1973

PUBLISHED BY AUTHORITY



and may make application to the commission for consideration, or application may be made by any person on his behalf.

Section 6. The commission shall meet forthwith after a vacancy occurs on the supreme court or district court and submit to the governor within thirty (30) days from the date of the vacancy a list of not less than three (3), nor more than five (5) persons.

Section 7. The governor must make an appointment from those names submitted by the commission.

Section 8. If the governor fails to nominate within thirty (30) days after receipt of the list, the chief justice or acting chief justice shall make the nomination.

Section 9. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session is effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

Section 10. A nominee confirmed by the senate serves until the next succeeding general election. The candidate elected at that election holds the office for the remainder of the unexpired term.

Section 11. Members of the commission are not eligible for nomination to a judicial office during their term on the commission or for one (1) year thereafter.

Section 12. The members of the commission are not entitled to compensation for their services, but they are entitled to actual expenses while actually engaged in the discharge of their official duties.

Section 13. The commission shall make rules for the conduct of its affairs and to provide for the confidentiality of its proceedings.

Section 14. Sections 93-209, 93-220, and 93-309, R.C.M. 1947, are repealed.

Approved: March 27, 1973.

CHAPTER NO. 471

An Act Providing Compensation for Injuries Producing Total Temporary Disability Under the Workmen's Compensation Act; Repealing Section 92-701, R.C.M. 1947.

15

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-701.1, R.C.M. 1947, which reads as follows:

92-701.1. **Compensation for injuries producing temporary total disability.** Weekly compensation benefits for injury producing total temporary disability shall be sixty-six and two-thirds per cent (66 2/3%) of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed one hundred ten dollars (\$110) beginning July 1, 1973. Beginning July 1, 1974, the maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total temporary disability benefits shall be paid for the duration of the worker's temporary disability.

In cases where it is determined that periodic benefits granted by the Social Security Act, 42 U.S.C. 301 (1935), are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero (0), by an amount equal, as nearly as practical, to one-half (1/2) the federal periodic benefits for such week.

Section 2. Section 92-701, R.C.M. 1947, is repealed.

Approved: March 27, 1973.

CHAPTER NO. 472

An Act to Revise Provisions for Waiver of Nonresident Fees in State Reciprocal Agreements; And Amending Section 75-8601, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-8601, R.C.M. 1947, is amended to read as follows:

"75-8601. **Charges for tuition—waiver of nonresident fees.** The regents may:

(a) prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

(b) waive at their discretion, nonresident tuition for selected and approved nonresident students not to exceed at any unit two per cent (2%) of the full-time equivalent enrollment at that unit during the preceding year; except that when necessary such tuition may be waived in excess of two per cent (2%) of unit enrollment for nonresident students who enroll under provisions